IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 526 OF 2004

MR.JOAO TEODORO RODRIGUES,DONGRIM MANDUR-GOA. ....Petitioner

Versus

MRS.MARIA AUGUSTA FERNANDES AND 5 ORS., ...Respondents

Mr. Joseph Vaz, Advocate for the petitioner.

Coram:- R. M. LODHA, J.

Date:- 20th October, 2005

P.C.

Heard Mr. Joseph Vaz, the learned Counsel for the petitioner.

2. By the impugned Order dated 30/04/2004, the trial Court rejected the petitioner's application for grant of leave to amend the plaint. By way of amendment, the petitioner who is the plaintiff in the suit, sought to introduce the prayer that the Sale Deed dated 2/12/98 be declared as null and void. The plaintiff averred in the application that he came to know for the first time regarding the sale deed dated 2.12.98 when the written statement came to be filed in the month of July, 2002.

3. The amendment application was contested by the defendants.

4. The Trial Court inter-alia held that the challenge to the sale deed suffered from delay.

5. After having taken into consideration the plaint filed by the petitioner and the amendment application, I find that the application seeking amendment in the plaint is not bonafide. It cannot be accepted

that plaintiff came to know of the sale deed dated 02.12.1998 for the first time when the written statement was filed in July, 2002. The fact that the plaintiff impleaded the purchaser as defendant No.6 would show that the plaintiff, at the time the suit was filed, was well aware that the subject-property had been transferred by the defendants No.1 to 5 to the the defendant No.6. The relief, thus, sought by way of amendment that the sale deed dated 02.12.1998 be declared null and void, had become time barred. The trial Court cannot be said to have erred in not granting leave to amend the plaint as prayed for.

6. No case for interference is made out. Writ petition is dismissed in limine.

R. M. LODHA, J.

ssm.